

REMARKS

The application has been amended as needed so as to place it in condition for disposal at the time of the next Official Action.

It is noted that the Primary Examiner crossed out three of the four references cited on PTO-1449 which accompanied applicants' Information Disclosure Statement filed on December 27, 2001. It is presumed that these three references were crossed out since they were not in the English language.

It is however pointed out that where the information listed is not in the English language, but was cited in a search report by a foreign patent office as is the case here, the requirement for concise explanation of relevance can be satisfied by submitting an English-language version of the search report which indicates the degree of relevance found by the foreign office. For the convenience of the Primary Examiner, there is submitted herewith page 600-122 of the August 2001 revision of the Manual of Patent Examining Procedure. There, in the right-hand column, it is clearly stated that this may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report. Accordingly, it is respectfully submitted that applicants' previously filed Information Disclosure Statement was in compliance with the rules and regulations, and

each of the previously provided references cited on the 1449 should have been considered, and initialed by the Primary Examiner. For the Examiner's convenience, there is submitted herewith another 1449, wherein the three previously crossed-out references have been re-cited.

Claims 5-9 were rejected under 35 USC §103(a) as being unpatentable over GUNN 4,619,806 in view of BRUNING 5,156,798. The Official Action states that the primary reference teaches the basic claimed apparatus for manufacturing packaging articles, but fails to disclose a bottom of the mold being provided with at least one suction tube for connection to a suction apparatus for holding an article against the bottom, while the mold is opened. The secondary reference to BRUNING is relied upon as teaching such a feature. It is concluded that it would have been obvious to one of ordinary skill in the art to have included at least one suction tube in the bottom mold of GUNN, in order to prevent displacement of the article during movement, as taught by BRUNING.

Reconsideration of the above rejection is respectfully requested for the following reasons.

By the present amendment, it will be seen that claim 5 has been amended so as to specify that the mold is constituted by separable elements, comprising a bottom mold element separable from an intermediate mold element.

Turning now to the applied prior art, as was recognized in the Official Action, the primary reference to GUNN simply fails to disclose or suggest a bottom of a mold provided with suction means.

The secondary reference to BRUNING discloses a mold having two elements, each including a cavity having a lateral wall **integral** with the bottom wall. It follows that the bottom of the mold is not separable from the lateral wall. In addition, the secondary reference positively recites that in a preferred embodiment, the suction cups 95 are made of a flexible elastomeric material (see column 13, lines 1-3). Consequently, the suction cups 95 could in no way be used as a bottom element of a blowing mold, since they would be flexible and would not adequately support the blown article.

It is respectfully submitted that there would be no reason, motivation or suggestion to a person having ordinary skill in the art to turn to the secondary BRUNING patented reference in order to modify GUNN.

It is respectfully submitted that it is only with knowledge gleaned from applicants' disclosure that the above prior art was mosaically combined to recreate a facsimile of the herein claimed invention. It is respectfully urged that such a combination is predicated on impermissible hindsight.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application has been placed in condition for allowance. Reconsideration and allowance on the basis of claims 5-9 are accordingly earnestly solicited.

In the event that there are any questions relating to this amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following items:

- copy of Form PTO-1449 previously submitted with the Information Disclosure Statement filed December 27, 2001, wherein the three crossed-out references have been re-cited
- copy of page 600-122 of the August 2001 revision of the Manual of Patent Examining Procedure

Second, 37 CFR 1.98(c) states that when the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications may be submitted without copies of the other patents or publications provided that a statement is made that these other patents or publications are cumulative. The examiner will then consider only the patent or publication of which a copy is submitted and will so indicate on the list, form PTO-1449, or PTO/SB/08A and 08B, submitted, e.g., by crossing out the listing of the cumulative information. But see *Semiconductor Energy Laboratory Co. v. Samsung Electronics Co.*, 204 F.3d 1368, 1374, 54 USPQ2d 1001, 1005 (Fed. Cir. 2000) (Reference was not cumulative since it contained a more complete combination of the claimed elements than any other reference before the examiner. "A withheld reference may be highly material when it discloses a more complete combination of relevant features, even if those features are before the patent examiner in other references." (citations omitted)).

37 CFR 1.98(a)(3)(ii) states that if a written English language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in 37 CFR 1.56(c), a copy of the translation shall accompany the statement. Translations are not required to be filed unless they have been reduced to writing and are actually translations of what is contained in the non-English language information. If no translation is submitted, the examiner will consider the information in view of the concise explanation and insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches.

### **A (3) Concise Explanation of Relevance for Non-English Language Information**

Each information disclosure statement must further include a concise explanation of the relevance, as it is presently understood by the individual designated in

37 CFR 1.56(c) most knowledgeable about the content of the information listed that is not in the English language. The concise explanation may be either separate from the specification or incorporated therein with the page(s) and lines of the specification where it is incorporated being noted in the IDS.

The requirement for a concise explanation of relevance is limited to information that is not in the English language. The explanation required is limited to the relevance as understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information at the time the information is submitted to the Office. If a complete translation of the information into English is submitted with the non-English language information, no concise explanation is required. An English-language equivalent application may be submitted to fulfill this requirement if it is, in fact, a translation of a foreign language application being listed in an information disclosure statement. There is no requirement for the translation to be verified. Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation. Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report. The requirement for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a United States application which is not relied on under 35 U.S.C. 120.

If information cited or submitted in a prior application relied on under 35 U.S.C. 120 was not in English, a concise explanation of the relevance of the information to the new application is not required unless the relevance of the information differs from its relevance as explained in the prior application.